

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 06-3114-01-CR-S-GAF
)	
DEAN P. PROFFITT,)	
)	
Defendant.)	

ORDER

Now pending before the Court is Defendant's Motion to Suppress Pretrial Photographic Identification and In Court Identification of Dean Proffitt by Adil Majlovic (Doc. #181). A hearing was scheduled on Defendant's Motion to Suppress for January 24, 2008. The parties were advised by the Court that only the issue of the photographic array would be taken up at that hearing.

On January 14, 2008, the government filed a Report advising the Court that the photographic array would not be used at trial. The government further advised that it did not intend to use witness Adil Majlovic to make an in court identification of Defendant at trial. The suppression hearing previously scheduled for January 24, 2008, was cancelled.

On January 18, 2008, Chief United States Magistrate Judge James C. England issued his Report and Recommendation.

Upon careful and independent review of the pending motion, as well as the applicable law, this Court hereby adopts and incorporates as its own Opinion and Order the Report and Recommendation of Chief United States Magistrate Judge James C. England.

Accordingly, it is hereby ORDERED that Defendant's Motion to Suppress (Doc. # 181)

as to in court identification of defendant Proffitt by witness Adil Majlovic is GRANTED.

It is further ORDERED that the remaining issues in the Motion to Suppress are DENIED without prejudice to the Defendant's right to attack Defendant's credibility and/or interview tactics of the United States at trial.

SO ORDERED.

s/ Gary A. Fenner
GARY A. FENNER, JUDGE
UNITED STATES DISTRICT COURT

DATED: February 13, 2008